

ESTTA Tracking number: **ESTTA440610**Filing date: **11/11/2011**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

**Petitioner Information**

Name	BHPC ASSOCIATES LLC		
Entity	limited liability corporation	Citizenship	Delaware
Address	1370 Broadway New York, NY 10018 UNITED STATES		

Attorney information	Robert L. Epstein Epstein Drangel LLP 60 East 42nd Street, Suite 2410 New York, NY 10165 UNITED STATES mail@ipcounselors.com Phone:2122925390
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**Registration Subject to Cancellation**

Registration No	4042469	Registration date	10/18/2011
Registrant	OLEMBERG, FABIAN CLAUDIO La Pampa 2326, Piso 2, Of. 2005 Captial Federal, 1428 ARGENTINA		

**Goods/Services Subject to Cancellation**

Class 025. First Use: 2008/09/17 First Use In Commerce: 2011/04/07 All goods and services in the class are cancelled, namely: Coats; Footwear for men; Hats; Jackets; Men's suits; Pants; Rain coats; Shirts; Shorts; Socks; Sport shirts; Sweat shirts; Sweaters; T-shirts; Ties; Trousers; Vests
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**Grounds for Cancellation**


Priority and likelihood of confusion	Trademark Act section 2(d)
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**Marks Cited by Petitioner as Basis for Cancellation**


U.S. Registration No.	1429311	Application Date	11/12/1985
Registration Date	02/17/1987	Foreign Priority Date	NONE
Word Mark	BEVERLY HILLS POLO CLUB		




Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1985/02/18 First Use In Commerce: 1985/02/18 CLOTHING FOR MEN, WOMEN AND CHILDREN-NAMELY SHIRTS, SWEATSHIRTS, SWEAT SUITS, SWEATERS, T-SHIRTS, PANTS, UNDERWEAR, CAPS, JACKETS, [LEOTARDS, DRESSES, PONCHOS]

U.S. Registration No.	1751058	Application Date	10/01/1991
Registration Date	02/09/1993	Foreign Priority Date	NONE
Word Mark	BEVERLY HILLS POLO CLUB		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 1991/05/31 First Use In Commerce: 1991/05/31 ophthalmic eyewear; namely, eyeglass frames, lenses, chains, and cases; eyeglasses; and sunglasses</p> <p>Class 014. First use: First Use: 1991/08/31 First Use In Commerce: 1991/08/31 watches</p> <p>Class 018. First use: First Use: 1991/03/31 First Use In Commerce: 1991/03/31 wallets, umbrellas, and small leather goods; namely, credit card cases, key cases, and coin purses</p> <p>Class 024. First use: First Use: 1991/03/01 First Use In Commerce: 1991/03/01 beach towels, bath towels, table linens and textile placemats, and bed and bath accessories; namely, fabric toilet seat covers</p> <p>Class 025. First use: First Use: 1989/10/31 First Use In Commerce: 1989/10/31 clothing for men, women and children; namely, shirts, sweatshirts, sweaters, tee shirts, pants, caps, hats, jackets, dresses, socks, hosiery, raincoats and outerwear; namely, coats and jackets, and belts</p>		




U.S. Registration No.	2091892	Application Date	08/15/1995
Registration Date	08/26/1997	Foreign Priority Date	NONE
Word Mark	BEVERLY HILLS POLO CLUB		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1996/10/00 First Use In Commerce: 1996/10/00 perfume [, cologne, toilet water, soap, skin moisturizer and creams] ,shower gel, [ shaving cream, shaving lotion, shaving gel, shampoo, baby powder, body powder, face powder, talcum powder, nail polish, nail polish remover, cosmetic pencils, bath and body oil, make-up, lipstick, lip gloss, skin lotions, facial lotions, body lotions, hand cream, ] deodorants and anti-perspirants and and after shave lotions		

U.S. Registration No.	2181220	Application Date	09/09/1996
Registration Date	08/11/1998	Foreign Priority Date	NONE
Word Mark	BEVERLY HILLS POLO CLUB		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 1997/07/15 First Use In Commerce: 1997/07/15 luggage		

U.S. Registration No.	2214846	Application Date	08/08/1994
Registration Date	12/29/1998	Foreign Priority Date	NONE
Word Mark	BEVERLY HILLS POLO CLUB		



Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1994/10/01 First Use In Commerce: 1994/10/01 footwear, namely shoes, boots, slippers, athletic shoes, and golf shoes

Attachments	73568042#TMSN.gif ( 1 page )( bytes ) 74209022#TMSN.gif ( 1 page )( bytes ) 74715704#TMSN.gif ( 1 page )( bytes ) 75162739#TMSN.gif ( 1 page )( bytes ) 74558586#TMSN.gif ( 1 page )( bytes ) 111111 Petition to Cancel.pdf ( 18 pages )(379709 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/robert l. epstein/
Name	Robert L. Epstein
Date	11/11/2011



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BHPC ASSOCIATES LLC,	:	
	:	
Petitioner,	:	Cancellation No. _____
	:	
v.	:	
	:	
	:	
OLEMBERG, FABIAN CLAUDIO	:	
	:	
Registrant.	:	
_____	X	

and therefore petitions to cancel said registration.






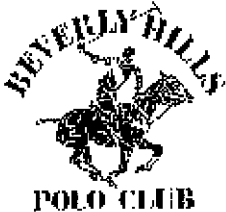

As grounds for its petition, Petitioner, by and through its undersigned attorneys, alleges as follows:

1. Continuously and long prior to the filing date of February 2, 2009 of Application Serial No. 77660964 upon which Registration No. 4042469 is based, Petitioner has offered and continues to offer a variety of goods, including clothing, perfume and leather accessories bearing the mark BEVERLY HILLS POLO CLUB in Design including the image of a polo player on horseback swinging his mallet (the “BEVERLY HILLS POLO CLUB and Polo Player Design mark”).

2. Over a prolonged period of time, Petitioner has invested a substantial amount of time, effort and money promoting its BEVERLY HILLS POLO CLUB and Polo Player Design mark and the goods bearing that mark. As a result of its promotional efforts, a tremendous volume of sales, and extensive use of the BEVERLY HILLS POLO CLUB and Polo Player Design mark, Petitioner's BEVERLY HILLS POLO CLUB and Polo Player Design mark has attained widespread acclaim in the United States, and has come to be exclusively recognized as identifying the products of Petitioner. Since long before any use of or alleged rights of Applicant in the mark hereby opposed, Petitioner's BEVERLY HILLS POLO CLUB and Polo Player Design mark has become distinctive of Petitioner's goods and represents a tremendous amount of goodwill of Petitioner's business.

3. In addition to its common law rights, Petitioner owns the following incontestable United States trademark registrations of the BEVERLY HILLS POLO CLUB and the Polo Player Design mark for use in the aggregate in connection with Petitioner's goods:



MARK	Class(es)	REGISTRATION NUMBER	REGISTRATION DATE
	25	1429311	02-17-1987
	09,14,18,24,25	1751058	02-09-1993
	03	2091892	08-26-1997
	18	2181220	08-11-1998
	25	2214846	12-29-1998



4. Petitioner's registrations are valid, subsisting, in full force and effect, incontestable, and are evidence of Petitioner's exclusive rights to use its registered marks on the identified goods, pursuant to 15 U.S.C. §§ 1057 and 1115. Current printouts from the electronic database records of the United States Patent and Trademark Office of the aforementioned incontestable registrations are attached hereto as **Exhibit A**.

5. Upon information and belief, Fabian Claudio Olemborg ("Registrant") filed with the United States Patent and Trademark Office an Intention to Use Application Ser. No. 77660964 dated February 2, 2009, for the trademark



for the following goods: "Coats; Footwear for men; Hats; Jackets; Men's suits; Pants; Rain coats; Shirts; Shorts; Socks; Sport shirts; Sweat shirts; Sweaters; T-shirts; Ties; Trousers."

6. Upon information and belief, said Application Ser. No. 77660964 was allowed by the United States Patent and Trademark Office and issued into Registration No. 4042469 on October 18, 2011, the registration which Petitioner seeks to cancel.

7. Registrant is not connected to Petitioner in any way and has not been authorized by Petitioner to use the mark of Registration No.



**COUNT I: Priority and Likelihood of Confusion**

8. Petitioner repeats and re-alleges each and every allegation contained in paragraphs 1 through 7 as if fully set forth herein.

9. Upon information and belief, Petitioner acquired rights in the BEVERLY HILLS POLO CLUB and Polo Player Design mark prior to any date on which Applicant can rely in connection with the mark of Registration No. 4042469.

10. Petitioner's BEVERLY HILLS POLO CLUB and Polo Player Design mark is the same as or similar to the mark of Registration No. 4042469 in appearance, sound, meaning and commercial impression, both marks including the word POLO and confusingly similar polo player images, arranged in a similar manner, with the confusingly similar polo player images situated above the word POLO.

11. The goods of the respective parties are identical or commercially related, and/or the conditions and activities surrounding the marketing of same are such that they would or could be encountered by the same persons under circumstances that could give rise to the mistaken belief that they originate from the same source.

12. As a result, the mark of Registration No. 4042469, when used in connection with the goods identified said registration, is likely to cause confusion or mistake or to deceive and mislead the trade and the purchasing public into believing that Applicant's services are the services of Petitioner, or that Registrant or its goods are authorized, licensed or controlled by Petitioner, or that Registrant is affiliated with or in some way related to Petitioner. Accordingly, any such use or and the continued registration of the mark of Registration No. 4042469 would and does violate Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).



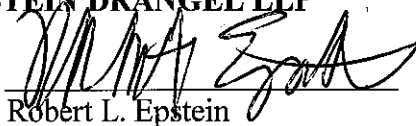
13. By reason of the foregoing, Petitioner will be damaged by the continued registration of the mark of Registration No. 4042469.

**WHEREFORE**, it is respectfully requested that this petition for cancellation be sustained and that the Registration No. 4042469 be cancelled.

Respectfully submitted,

**EPSTEIN DRANGEL LLP**

Dated: November 11, 2011

By:   
Robert L. Epstein  
William C. Wright  
Jason M. Drangel  
60 East 42<sup>nd</sup> Street, Suite 2410  
New York, New York 10165  
Tel. No.: (212) 292-5390  
Fax. No.: (212) 292-5391



# EXHIBIT A





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<b>Word Mark</b>	<b>BEVERLY HILLS POLO CLUB</b>
<b>Goods and Services</b>	IC 025. US 022 039. G & S: CLOTHING FOR MEN, WOMEN AND CHILDREN-NAMELY SHIRTS, SWEATSHIRTS, SWEAT SUITS, SWEATERS, T-SHIRTS, PANTS, UNDERWEAR, CAPS, JACKETS, [LEOTARDS, DRESSES, PONCHOS]. FIRST USE: 19850218. FIRST USE IN COMMERCE: 19850218
<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Search Code</b>	02.09.17 - Humans, including men, women and children, depicted riding horses and other animals; Riding animals, humans 02.09.19 - Diving, humans; Humans, including men, women and children, depicted playing games or engaged in other sports; Playing games or sports, humans
<b>Serial Number</b>	73568042
<b>Filing Date</b>	November 12, 1985
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	November 25, 1986
<b>Registration Number</b>	1429311
<b>Registration Date</b>	February 17, 1987



**Owner** (REGISTRANT) GREGORY LANG, INC. CORPORATION CALIFORNIA 1940 LOVELACE  
AVENUE LOS ANGELES CALIFORNIA 90015

(LAST LISTED OWNER) BHPC ASSOCIATES LLC LIMITED LIABILITY CORPORATION  
DELAWARE 1370 BROADWAY NEW YORK NEW YORK 10018

**Assignment  
Recorded** ASSIGNMENT RECORDED

**Attorney of  
Record** Karin Segall

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20070709.

**Renewal** 1ST RENEWAL 20070709 .

**Live/Dead  
Indicator** LIVE

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**Browser to return to TESS)****Word Mark****BEVERLY HILLS POLO CLUB****Goods and Services**

IC 009. US 002 026. G & S: ophthalmic eyewear; namely, eyeglass frames, lenses, chains, and cases; eyeglasses; and sunglasses. FIRST USE: 19910531. FIRST USE IN COMMERCE: 19910531

IC 014. US 027. G & S: watches. FIRST USE: 19910831. FIRST USE IN COMMERCE: 19910831

IC 018. US 003 041. G & S: wallets, umbrellas, and small leather goods; namely, credit card cases, key cases, and coin purses. FIRST USE: 19910331. FIRST USE IN COMMERCE: 19910331

IC 024. US 042. G & S: beach towels, bath towels, table linens and textile placemats, and bed and bath accessories; namely, fabric toilet seat covers. FIRST USE: 19910301. FIRST USE IN COMMERCE: 19910301

IC 025. US 039. G & S: clothing for men, women and children; namely, shirts, sweatshirts, sweaters, tee shirts, pants, caps, hats, jackets, dresses, socks, hosiery, raincoats and outerwear; namely, coats and jackets, and belts. FIRST USE: 19891031. FIRST USE IN COMMERCE: 19891031

**Mark Drawing Code**

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

**Design Search Code**

02.01.19 - Athletes (men); Golfer; Men, athletes, strongmen; Strongmen

02.01.31 - Men, stylized, including men depicted in caricature form

02.09.17 - Humans, including men, women and children, depicted riding horses and other animals;



Riding animals, humans  
21.03.04 - Croquet mallets; Lacrosse sticks; Mallets (sports); Mallets, croquet; Mallets, polo; Polo mallets

**Serial Number** 74209022  
**Filing Date** October 1, 1991  
**Current Filing Basis** 1A  
**Original Filing Basis** 1A  
**Published for Opposition** November 17, 1992  
**Change In Registration** CHANGE IN REGISTRATION HAS OCCURRED  
**Registration Number** 1751058  
**Registration Date** February 9, 1993  
**Owner** (REGISTRANT) BHPC Marketing, Inc. CORPORATION CALIFORNIA 27129 CALLE ARROYO SUITE 1821 SAN JUAN CAPISTRANO CALIFORNIA 92675  
  
(LAST LISTED OWNER) BHPC ASSOCIATES LLC LIMITED LIABILITY CORPORATION DELAWARE 1370 BROADWAY NEW YORK NEW YORK 10018  
**Assignment Recorded** ASSIGNMENT RECORDED  
**Attorney of Record** Dennis G. Martin  
**Prior Registrations** 1429311;AND OTHERS  
**Disclaimer** NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BEVERLY HILLS" APART FROM THE MARK AS SHOWN  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20030422.  
**Renewal** 1ST RENEWAL 20030422  
**Live/Dead Indicator** LIVE

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**Browser to return to TESS)****Word Mark****BEVERLY HILLS POLO CLUB****Goods and Services**

IC 003. US 001 004 006 050 051 052. G & S: perfume [, cologne, toilet water, soap, skin moisturizer and creams], shower gel, [ shaving cream, shaving lotion, shaving gel, shampoo, baby powder, body powder, face powder, talcum powder, nail polish, nail polish remover, cosmetic pencils, bath and body oil, make-up, lipstick, lip gloss, skin lotions, facial lotions, body lotions, hand cream, ] deodorants and anti-perspirants and and after shave lotions. FIRST USE: 19961000. FIRST USE IN COMMERCE: 19961000

**Mark Drawing Code**

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

**Design Search Code**

02.09.17 - Humans, including men, women and children, depicted riding horses and other animals; Riding animals, humans  
 21.03.04 - Croquet mallets; Lacrosse sticks; Mallets (sports); Mallets, croquet; Mallets, polo; Polo mallets

**Serial Number** 74715704**Filing Date** August 15, 1995**Current Filing Basis** 1A**Original Filing Basis** 1B**Published for Opposition** August 27, 1996**Registration Number** 2091892



**Registration Date** August 26, 1997

**Owner** (REGISTRANT) BHPC Marketing, Inc. CORPORATION CALIFORNIA 27129 Calle Arroyo Suite 1821 San Juan Capistrano CALIFORNIA 92675

(LAST LISTED OWNER) BHPC ASSOCIATES LLC LIMITED LIABILITY CORPORATION DELAWARE 1370 BROADWAY NEW YORK NEW YORK 10018

**Assignment Recorded** ASSIGNMENT RECORDED.

**Attorney of Record** Karin Segall and Paul Fields

**Prior Registrations** 1429311;1687874;1751058;1947244;AND OTHERS

**Disclaimer** NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BEVERLY HILLS" APART FROM THE MARK AS SHOWN

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20070720.

**Renewal** 1ST RENEWAL 20070720

**Live/Dead Indicator** LIVE

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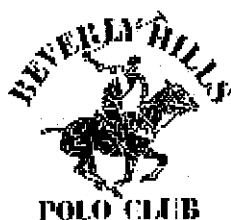
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<b>Word Mark</b>	<b>BEVERLY HILLS POLO CLUB</b>
<b>Goods and Services</b>	IC 018. US 001 002 003 022 041. G & S: luggage. FIRST USE: 19970715. FIRST USE IN COMMERCE: 19970715
<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Search Code</b>	02.01.19 - Athletes (men); Golfer; Men, athletes, strongmen; Strongmen 02.01.31 - Men, stylized, including men depicted in caricature form 02.09.17 - Humans, including men, women and children, depicted riding horses and other animals; Riding animals, humans 02.09.19 - Diving, humans; Humans, including men, women and children, depicted playing games or engaged in other sports; Playing games or sports, humans
<b>Serial Number</b>	75162739
<b>Filing Date</b>	September 9, 1996
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	April 22, 1997
<b>Registration Number</b>	2181220
<b>Registration Date</b>	August 11, 1998
<b>Owner</b>	(REGISTRANT) BHPC Marketing, Inc. CORPORATION CALIFORNIA 620 West 135th Street



Gardena CALIFORNIA 90248

(LAST LISTED OWNER) BHPC ASSOCIATES LLC LIMITED LIABILITY CORPORATION  
DELAWARE 1370 BROADWAY NEW YORK NEW YORK 10018**Assignment  
Recorded**

ASSIGNMENT RECORDED

**Attorney of Record** Paul Fields, Amy J. Benjamin, Eric A. Prager and Abigail Rubinstein**Type of Mark** TRADEMARK**Register** PRINCIPAL**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20080720.**Renewal** 1ST RENEWAL 20080720**Live/Dead Indicator** LIVE

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<b>Word Mark</b>	<b>BEVERLY HILLS POLO CLUB</b>
<b>Goods and Services</b>	IC 025. US 022 039. G & S: footwear, namely shoes, boots, slippers, athletic shoes, and golf shoes. FIRST USE: 19941001. FIRST USE IN COMMERCE: 19941001
<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Search Code</b>	02.01.02 - Men depicted as shadows or silhouettes of men; Silhouettes of men 02.01.19 - Athletes (men); Golfer; Men, athletes, strongmen; Strongmen 02.09.17 - Humans, including men, women and children, depicted riding horses and other animals; Riding animals, humans 21.03.04 - Croquet mallets; Lacrosse sticks; Mallets (sports); Mallets, croquet; Mallets, polo; Polo mallets
<b>Serial Number</b>	74558586
<b>Filing Date</b>	August 8, 1994
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	May 9, 1995
<b>Registration Number</b>	2214846
<b>Registration Date</b>	December 29, 1998
<b>Owner</b>	(REGISTRANT) BHPC MARKETING, INC. CORPORATION CALIFORNIA 27129 CALLE



ARROYO SUITE 1821 SAN JUAN CAPISTRANO CALIFORNIA 92675

(LAST LISTED OWNER) BHPC ASSOCIATES LLC LIMITED LIABILITY CORPORATION  
DELAWARE 1370 BROADWAY NEW YORK NEW YORK 10018**Assignment  
Recorded**

ASSIGNMENT RECORDED

**Attorney of Record** Paul Fields, Amy J. Benjamin and Abigail Rubinstein**Prior Registrations** 1429311;1687874**Disclaimer** NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BEVERLY HILLS" APART FROM  
THE MARK AS SHOWN**Type of Mark** TRADEMARK**Register** PRINCIPAL**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20090121.**Renewal** 1ST RENEWAL 20090121**Live/Dead Indicator** LIVE[TESS HOME](#)[NEW USER](#)[STRUCTURED](#)[FREE FORM](#)[Browse Docs](#)[SEARCH OG](#)[TOP](#)[HELP](#)[PREV LIST](#)[CURR LIST](#)[NEXT LIST](#)[FIRST DOC](#)[PREV DOC](#)[NEXT DOC](#)[LAST DOC](#)[|.HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



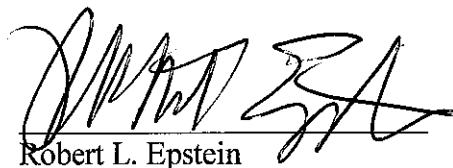
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing Petition for Cancellation was served by First Class Mail, with sufficient postage prepaid, on this 11th day of November, 2011, upon Registrant's attorney of record:

ARTURO PEREZ-GUERRERO  
LAW OFFICES OF ARTURO PEREZ-GUERRERO  
PO BOX 9024163  
SAN JUAN, PUERTO RICO 00902-4163

BY:

  
Robert L. Epstein

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